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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,211	03/23/2004	Hiroki Hasegawa	826.1938	1684

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EXAMINER	
CLOUD, JOIYA M	

ART UNIT	PAPER NUMBER
2144	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/806,211	HASEGAWA ET AL.	
	Examiner	Art Unit	
	Joiya M. Cloud	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10,12 and 14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10,12 and 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☒ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/24/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the application filed on 02/04/2008. Claims 1-10, 12, and 14 are pending. Applicant's arguments have been considered but are moot in view of new grounds of rejection.

2. ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-10, 12, and 14** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Jackson et al. (US Pub. No. 2002/0152305 A1)**

As per claim 1, Jackson teaches a resource adjustment apparatus for adjusting for each module an amount of computer resources used in a system having a plurality of modules each comprising at least one application programs, comprising:

a storage device storing data representing a transition of a past transaction occurrence amount for each of the plurality of modules wherein the transaction occurrence amount indicates

an offered load and the transition of the past transaction occurrence amount **(the logged resource utilization information of the history repository)** represents a variation of measurement values of the past transaction occurrence amount over a period of time **(where Jackson teaches where utilization data is logged representing the "individual logged intervals of time" over (e.g. , week, month, year etc.) (See also, Abstract, history repository 2300, paragraphs [0444], [0454] and [0461])**;

a generation device obtaining data representing the transition of the past transaction occurrence amount of a target module of the modules from the storage device and generating function that expresses a correlation between measurement values a past transaction processing amount **(paragraph [0536])** and measurement values of a corresponding past use resource amount **(paragraph [0536])** of the target module **(paragraph [0466], where Jackson discloses a comparison of analysis parameters of historical (past) resource utilization information that measure past use resources amounts and past transaction processing amounts and paragraph [0448])**, wherein the obtained data representing the transition of the past transaction occurrence amount is used as values of the past transaction processing amount in the function **(paragraph [0448])**, thereby generating a past transition of a use resource amount from the transition of the transaction occurrence amount of the target module, the transition of the past use resource amount indicting a variation of the past use resource amount over a period of time **(paragraphs [0454], [0461] and [0462], Figures 17-18 and paragraphs [0490]-[499])**;

and an allocation device using the generated transition of the past use resource amount as a transition of a predicted use resource amount and automatically fluctuating an allocation

resource amount of the target module in accordance with the transition of the predicted use resource amount **(Figure 17, paragraphs [0343], [0390], [0463], and [0466])**.

As per claim 2, claim 2 is substantially the same as claim 1, but in computer-readable storage medium form rather than apparatus form.

As per claim 3, Jackson teaches a storage medium wherein the program causes a computer to perform: generating a transition of a predicted transaction occurrence amount in each of several types of cycles using the data that represents the transition of the transaction occurrence amount of the target module, displaying the generated transition on a screen and combining the transitions of the transaction occurrence amounts in respective cycles in accordance with an instruction from an operator, thereby generating a transition of a predicted transaction occurrence amount **(paragraph [0446])**; applying said function to the transition of the predicted transaction occurrence amount; and generating a transition of the use resource amount **(paragraph [0450] and [0468])**.

As per claim 4, Jackson teaches a storage medium wherein the program causes the computer to perform: generating transitions of a mean value and a maximum value of transaction occurrence amounts regarding at least two modules in each of the several types of cycles in the system; displaying the generated transitions on a screen; combining transitions of transaction occurrence amounts in respective cycles using a value selected by the operator; and generating a transition of the predicted transaction occurrence amount **(paragraphs [0448] [0449], and [0450])**.

As per claim 5, Jackson teaches a storage medium wherein the program causes the computer to perform: displaying the generated transition of the use resource amount on a screen; and when an operator changes the displayed transition of the use resource amount, using the changed transition of the use resource amount as the transition of the predicted use resource amount **(paragraphs [0448] [0449], and [0450])**.

As per claim 6, Jackson teaches a storage medium wherein the program causes the computer to perform: obtaining data that represents a transition of a most-recent transaction occurrence amount of the target module from the storage device; using a transition of a use resource amount generated by the transition of the most-recent transaction occurrence amount as a transition of a immediately-after predicted use resource amount; and fluctuating an immediately-after allocation resource amount of the target module **(paragraphs [0461] and [0462])**.

As per claim 7, Jackson teaches a storage medium wherein the program causes the computer to perform: preferentially allocating resources to the target module during a period since a use resource amount of the target module reaches a predetermined bottleneck detection threshold until a use resource amount of the target module reaches a bottleneck elimination threshold **(paragraphs [0461], [0467], and [0600])**.

As per claim 8, Jackson teaches storage medium wherein the program causes the computer to perform: preferentially allocating resources to the target module during a period since a transaction occurrence amount of the target module reaches a predetermined bottleneck

detection threshold until a transaction occurrence amount of the target module reaches a bottleneck elimination threshold **(paragraph [0461], [0466], [0467] [0600])**.

As per claim 9, Jackson teaches a storage medium wherein the program causes the computer to perform: instructing the target module to generate a child processing when a predicted use resource amount of the target module reaches a predetermined amount **(paragraphs [0009], [0030], [0031])**.

As per claim 10, Jackson teaches a storage medium wherein the program causes the computer to perform: displaying a screen for capacity planning support including a transition of a use resource amount that is predicted for a long time **(paragraph [0457, [0458])**.

As per claim 12, claim 12 is substantially the same as claim 1 but in method form rather than apparatus form. Therefore, the rejection for claim 1 applies equally as well to the rejection for claim 12.

As per claim 14, claim 14 is substantially the same as claim 1 and thus rejected using similar rationale.

Response to Arguments

A) The asserted citation does not teach "data representing the transition of the past transaction occurrence amount is used as values of the past transaction processing amount in the function", where the transaction of the past use resource amount indicates "a variation of the past use resource amount over a period of time." Jackson does not teach or suggest “a correlation

between measurement values of a past transaction processing amount and measurement values of a corresponding past use resource amount of the target module" and "generating a transition of the past use resource amount from the transition of the transaction occurrence amount of the target module, the transition of the past use resource amount indicating a variation of the past use resource amount over a period of time," as recited in claim 1.

As to the above point A), the new claim amendments recited, see above new grounds of rejection.

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC

/William C. Vaughn, Jr./

Supervisory Patent Examiner **June 18, 2008**